



9110-04-P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG-2014-0492]

RIN 1625-AA00

Safety Zone; Portland Dragon Boat Races, Willamette River,  
Portland, OR

AGENCY: Coast Guard, DHS.

ACTION: Interim rule and request for comments.

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SUMMARY: The Coast Guard is establishing a safety zone in Portland, OR. This safety zone is necessary to help ensure the safety of the maritime public during the annual marine event and will do so by prohibiting unauthorized persons and vessels from entering the regulated area unless authorized by the Sector Columbia River Captain of the Port or his designated representatives.

DATES: This rule is effective without actual notice [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER]. For the purposes of enforcement, actual notice will be used from the date the rule was signed, September 4, 2014 until [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER].

Comments and related material must be received by the

Coast Guard on or before [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

Requests for public meetings must be received by the Coast Guard on or before [INSERT DATE 7 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: Documents mentioned in this preamble are part of Docket Number USCG-2014-0492. To view documents mentioned in this preamble as being available in the docket, go to <http://www.regulations.gov>, type the docket number in the "SEARCH" box and click "SEARCH." Click on "Open Docket Folder" on the line associated with this rulemaking. You may also visit the Docket Management Facility in Room W12-140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

You may submit comments identified by docket number USCG-2014-0492 using any one of the following methods:

- (1) Federal e-Rulemaking Portal:

<http://www.regulations.gov>

- (2) Fax: 202-493-2251.

- (3) Mail or Delivery: Docket Management Facility (M-30), U.S. Department of Transportation, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue SE,

Washington, DC 20590-0001. Deliveries accepted between 9 a.m. and 5 p.m., Monday through Friday, except federal holidays. The telephone number is 202-366-9329.

See the "Public Participation and Request for Comments" portion of the SUPPLEMENTARY INFORMATION section below for further instructions on submitting comments. To avoid duplication, please use only one of these three methods.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or e-mail Kenneth Lawrenson, Waterways Management Division, Marine Safety Unit Portland, Coast Guard; telephone 503-240-9319, e-mail [msupdxwwm@uscg.mil](mailto:msupdxwwm@uscg.mil).

If you have questions on viewing or submitting material to the docket, call Cheryl Collins, Program Manager, Docket Operations, telephone (202) 366-9826.

#### SUPPLEMENTARY INFORMATION:

##### Table of Acronyms

DHS	Department of Homeland Security
FR	Federal Register
NPRM	Notice of Proposed Rulemaking

#### A. Public Participation and Request for Comments

We encourage you to participate in this rulemaking by submitting comments and related materials. All comments received will be posted without change to

<http://www.regulations.gov> and will include any personal information you have provided.

#### 1. Submitting comments

If you submit a comment, please include the docket number for this rulemaking, indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. You may submit your comments and material online at <http://www.regulations.gov>, or by fax, mail, or hand delivery, but please use only one of these means. If you submit a comment online, it will be considered received by the Coast Guard when you successfully transmit the comment. If you fax, hand deliver, or mail your comment, it will be considered as having been received by the Coast Guard when it is received at the Docket Management Facility. We recommend that you include your name and a mailing address, an e-mail address, or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

To submit your comment online, go to <http://www.regulations.gov>, type the docket number [USCG-2014-0492] in the "SEARCH" box and click "SEARCH." Click on "Submit a Comment" on the line associated with this rulemaking.

If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit comments by mail and would like to know that they reached the Facility, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period and may change the rule based on your comments.

## 2. Viewing comments and documents

To view comments, as well as documents mentioned in this preamble as being available in the docket, go to <http://www.regulations.gov>, type the docket number in the "SEARCH" box and click "SEARCH." Click on Open Docket Folder on the line associated with this rulemaking. You may also visit the Docket Management Facility in Room W12-140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

## 3. Privacy Act

Anyone can search the electronic form of comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor

union, etc.)). You may review a Privacy Act notice regarding our public dockets in the January 17, 2008, issue of the Federal Register (73 FR 3316).

#### 4. Public meeting

We do not now plan to hold a public meeting. But you may submit a request for one before [INSERT DATE 7 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER], using one of the methods specified under ADDRESSES. Please explain why you believe a public meeting would be beneficial. If we determine that one would aid this rulemaking, we will hold one at a time and place announced by a later notice in the Federal Register.

#### B. Regulatory History and Information

The Coast Guard is issuing this final rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are "impracticable, unnecessary, or contrary to the public interest." Under 5 U.S.C. 553 (b) (B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule. The first event for

which this safety zone will be in effect is scheduled to be held on the 6<sup>th</sup> and 7<sup>th</sup> of September, 2014. Approximately 1,850 people are anticipating this event to commence as scheduled, and the event organizers are unable to reschedule the event in order to allow enough time for public comment. As such, it is impracticable for the Coast Guard to publish an NPRM with a notice and comment period, as well as a Final Rule (FR) prior to the date of the 2014 event. However, comments received under this temporary interim rule will be considered before a final rule is published.

Under 5 U.S.S. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the Federal Register. The first event for which this safety zone will be in effect is scheduled to be held on the 6<sup>th</sup> and 7<sup>th</sup> of September, 2014. Approximately 1,850 people are anticipating this event to commence as scheduled, and the event organizers are unable to reschedule the event in order to allow enough time for public comment. As such, it is impracticable to wait until 30 days after publication in the Federal Register to make this rule effective.

### C. Basis and Purpose

Coast Guard Captains of the Port are granted authority to establish safety zones in 33 CFR 1.05-1(f) for safety and environmental purposes as described in 33 CFR Part 165.

The Portland dragon boat races generally take place each year on the first or second weekend of September. These events create the potential for complex navigation situations because of the large number of vessels that congregate near the event. In addition, the dragon boats involved in this regatta are not power driven vessels and consequently are limited in their ability to maneuver. A safety zone is necessary in order to ensure the safety of the maritime public in the proximity of marine event sites and reduce the risk of collision with the non-power driven vessels involved in the race.

### D. Discussion of the Interim Rule

The rule establishes a safety zone in the Thirteenth Coast Guard District. The safety zone will be located along the western side of the Willamette River extending from Tom McCall Waterfront Park between the Hawthorne and Marquam Bridges, Portland, OR. This safety zone will be enclosed by four lines along the western side of the Willamette River extending from Tom McCall Waterfront Park between the Hawthorne and Marquam Bridges, Portland, OR:



line one starting at 45-30'49'' N/122-40'24'' W then heading east to 45-30'49'' N/122-40'22'' W then heading south to 45-30'29'' N/122-40'08'' W then heading west to 45-30'26'' N/122-40'14'' W then heading north ending at 45-30'49'' N/122-40'24''W. The center span of the Hawthorne and Marquam bridges will be left open to allow commercial traffic through during the event. This safety zone will be enforced from 8:00 a.m. to 6:00 p.m. on the first or second Saturday and Sunday of September. The Coast Guard will make notifications via maritime advisories when the safety zone will be enforced. Enforcement of the zone will be short in duration and will allow waterway users to enter or transit through the zone when deemed safe by the Captain of the Port or his designated representative.

#### E. Regulatory Analyses

We developed this rule after considering numerous statutes and executive orders related to rulemaking. Below we summarize our analyses based on these statutes and executive orders.

##### 1. Regulatory Planning and Review

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory Planning and Review, as supplemented by Executive Order 13563, Improving Regulation and Regulatory Review, and does not

require an assessment of potential costs and benefits under section 6(a)(3) of Executive Order 12866 or under section 1 of Executive Order 13563. The Office of Management and Budget has not reviewed it under those Orders. The Coast Guard has made this determination based on the fact that the regulated area created by this rule will not significantly affect the maritime public because vessels may still coordinate their transit with the Coast Guard in the vicinity of the safety zone.

## 2. Impact on Small Entities

The Regulatory Flexibility Act of 1980 (RFA), 5 U.S.C. 601-612, as amended, requires federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term "small entities" comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

This rule may affect the following entities, some of which may be small entities: the owners and operators of vessels intending to operate in the area covered by the

safety zone.

The rule will not have a significant economic impact on a *substantial* number of small entities for the following reasons: (i) the regulated area is limited in size; (ii) the official on-scene patrol may authorize access to the regulated area; (iii) the regulated area will affect a limited geographical location for a limited time; (iv) the Coast Guard will make notifications via maritime advisories so mariners can adjust their plans accordingly; and (v) vessel traffic will be able to pass the safety zone with permission from the COTP representative.

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this rule would have a significant economic impact on it, please submit a comment (see ADDRESSES) explaining why you think it qualifies and how and to what degree this rule would economically affect it.

### 3. Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104-121), we want to assist small entities in understanding this rule. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please

contact the person listed in the FOR FURTHER INFORMATION CONTACT above.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1-888-REG-FAIR (1-888-734-3247). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

#### 4. Collection of Information

This rule will not call for a new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520).

#### 5. Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this rule under that Order

and determined that this rule does not have implications for federalism.

#### 6. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to contact the person listed in the FOR FURTHER INFORMATION CONTACT section to coordinate protest activities so that your message can be received without jeopardizing the safety or security of people, places or vessels.

#### 7. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531-1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 (adjusted for inflation) or more in any one year. Though this rule will not result in such expenditure, we do discuss the effects of this rule elsewhere in this preamble.

#### 8. Taking of Private Property

This rule will not cause a taking of private property or otherwise have taking implications under Executive Order

12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

9. Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

10. Protection of Children from Environmental Health Risks

We have analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not create an environmental risk to health or risk to safety that may disproportionately affect children.

11. Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

## 12. Energy Effects

This action is not a "significant energy action" under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use.

## 13. Technical Standards

This rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

## 14. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023-01 and Commandant Instruction M16475.1D, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321-4370f), and have made a preliminary determination that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves the creation of one safety zone around a marine event to protect the maritime public. This rule is categorically excluded from further review under paragraph 34(g) of Figure 2-1 of the Commandant Instruction. A preliminary environmental analysis checklist supporting this determination and a Categorical Exclusion Determination are available in the docket where

indicated under ADDRESSES. We seek any comments or information that may lead to the discovery of a significant environmental impact from this rule.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR Part 165 as follows:

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

1. The authority citation for Part 165 continues to read as follows:

Authority: 33 U.S.C. 1226; 1231; 46 U.S.C. Chapter 701, 3306, 3703; 50 U.S.C. 191, 195; 33 CFR 1.05-1, 6.04-1, 6.04-6, and 160.5; Pub. L. 107-295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

2. Add § 165.1341 to read as follows:

§ 165.1341 Safety Zone; Portland Dragon Boat Races, Portland, OR.

(a) *Safety Zones*. The following area is a designated safety zone:

(1) *Location*. This safety zone is enclosed by four



lines along the western side of the Willamette River extending from Tom McCall Waterfront Park between the Hawthorne and Marquam Bridges, Portland, OR: line one starting at 45-30'49'' N/122-40'24'' W then heading east to 45-30'49'' N/122-40'22'' W then heading south to 45-30'29'' N/122-40'08'' W then heading west to 45-30'26'' N/122-40'14'' W then heading north ending at 45-30'49'' N/122-40'24''W.

(2) *Enforcement Period.* This safety zone will be enforced from 8:00 a.m. to 6:00 p.m. on the first or second Saturday and Sunday of September.

(b) *Regulations.* In accordance with the general regulations in 33 CFR Part 165, subpart C, no person may

enter or remain in the safety zone created in this section or bring, cause to be brought, or allow to remain in the safety zone created in this section any vehicle, vessel, or object unless authorized by the Captain of the Port or his designated representative. The Captain of the Port may be assisted by other Federal, State, or local agencies with the enforcement of the safety zone.

Dated: September 4, 2014

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D. J. Travers,  
Captain, U.S. Coast Guard,  
Captain of the Port,  
Sector Columbia River.

[FR Doc. 2014-24908 Filed 10/20/2014 at 8:45 am;  
Publication Date: 10/21/2014]